

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

BETTY BERNHART, FAUSTO BRITO, and
CHARLES ROBERTS, individually and on behalf
of all persons similarly situated,

13 CV 2935 (RPP)(JLC)

Plaintiffs,

-against-

**NOTICE OF MOTION TO
COMPEL ARBITRATION AND
FOR RELATED RELIEF**

ASTA FUNDING, INC., ASTA JOHN/JANE
DOES 1-20, PALISADES COLLECTION, LLC,
GARY STERN, PALISADES COLLECTION
JOHN/JANE DOES 1-20, PRESSLER &
PRESSLER, LLP, RICHARD A. FRANKLIN,
RALPH GULKO, MITCHELL E. ZIPKIN, and
PRESSLER JOHN/JANE DOES 1-20,

Defendants.

-----X

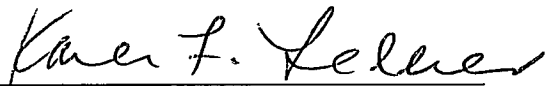
PLEASE TAKE NOTICE that upon the annexed Declaration of Seth Berman executed September 4, 2013 and the exhibits annexed thereto, the annexed Declaration of Karen Lederer executed September 4, 2013 and the exhibits annexed thereto, the accompanying memorandum of law dated September 4, 2013, and all of the pleadings and prior proceedings herein, the undersigned will move before the Honorable Robert P. Patterson, U.S.D.J. in Courtroom 24A, United States Courthouse, 500 Pearl Street, New York, New York 10007, for an order (i) compelling plaintiffs Charles Roberts ("Roberts") and Jorge Viruet ("Viruet") to arbitrate their claims against defendants Asta Funding, Inc. ("Asta"), Palisades Collection, LLC ("Palisades"), and Gary Stern ("Stern") (collectively the "Asta Defendants") on an individual basis; (ii) permitting limited discovery as to the arbitrability of the claims asserted by plaintiffs Betty Bernhart ("Bernhart") and Fausto Brito ("Brito") and staying the action as against the Asta Defendants pending the completion of that discovery and all arbitration proceedings involving

the plaintiffs; and (iii) for such other and further relief as this Court deems just and proper. In the alternative, the Asta Defendants move for an order pursuant to Fed. R. Civ. P. 12(b)(1), dismissing Viruet's claims for lack of subject matter jurisdiction, and pursuant to Fed. R. Civ. P. 12(b)(6), dismissing Viruet's claims for failure to state a claim upon which relief can be granted.

Dated: September 4, 2013
New York, New York

Respectfully Submitted,

TROUTMAN SANDERS LLP

By: 

Charles P. Greenman, Esq.

Karen F. Lederer, Esq.

Eric L. Unis, Esq.

Kevin P. Wallace, Esq.

The Chrysler Building
405 Lexington Avenue
New York, New York 10174-0700
Tel: (212) 704-6000
Fax: (212) 704-6288

*Attorneys for Defendants Asta Funding, Inc.,
Palisades Collection, LLC, and Gary Stern*